

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

//

CRIMINAL NO. 1:09CR03
(Judge Keeley)

JOSEPH VAN SACH,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION (dkt. no. 106)

On August 3, 2009, pro se defendant, Joseph Van Sach ("Van Sach"), filed five motions with the Court: 1) "Motion for the Defendant to Challenge the Grand Jury on the Grounds that it was not Lawfully Drawn, Summoned or Selected under F.R.C.P. Rule 6(b)(1)" (dkt. no. 95)]; 2) "Motion to Dismiss Video Surveillance [sic] Videotapes without the use of Witness and Victim to the Alleged Charges" (dkt. no. 96); 3) "Motion Challenging Dismissal of the Indictment Based on Selective Prosecution" (dkt. no. 97); 4) "Motion to Dismiss under [sic] the Grounds that the Defendant did not Commit an Offense Against the United States" (dkt. no. 98); and 5) "Motion to Dismiss under [sic] Grounds of Prejudice Against the Defendant" (dkt. no. 99). The Court referred these matters to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with 28 U.S.C. § 636(b)(1).

On August 24, 2009, Joseph Van Sach, pro se, and with stand-by counsel Scott Radman, and the United States by its Assistant United

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States Attorney David Godwin appeared before Magistrate Judge Kaul to resolve the issues raised by Van Sach's motions. After a hearing on the motions, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R"), recommending that all five of Van Sach's motions be denied with prejudice. (dkt. no. 106).

The R&R also specifically warned that failure to object to the recommendation within ten days of receipt of the R&R would result in the waiver of any appellate rights on this issue. No objections have been filed.¹

The Court, therefore, **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 106), and **DENIES** Van Sach's 1) "Motion for the Defendant to Challenge the Grand Jury on the Grounds that it was not Lawfully Drawn, Summoned or Selected under F.R.C.P. Rule 6(b)(1)" (dkt. no. 95); 2) Motion to Dismiss Video Surveillance [sic] Videotapes without the use of Witness and Victim to the Alleged Charges" (dkt. no. 96); 3) "Motion Challenging Dismissal of the Indictment Based on Selective Prosecution" (dkt. no. 97); 4) "Motion to Dismiss under [sic] the Grounds that the Defendant did not Commit an Offense Against the United States" (dkt. no. 98); and

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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5) "Motion to Dismiss under [sic] Grounds of Prejudice Against the Defendant" (dkt. no. 99).

It is so **ORDERED**.

The Court directs the Clerk to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: October 1, 2009

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE